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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/782,328	02/19/2004	Leonard R. Kilby	79123-1132	5404

7590

11/09/2004

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EXAMINER

TAWFIK, SAMEH

ART UNIT	PAPER NUMBER
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3721

DATE MAILED: 11/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/782,328	Applicant(s) KILBY ET AL.	
	Examiner Sameh H. Tawfik	Art Unit 3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 65-69 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 65-69 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Objections

Claim 65 is objected to because of the following informalities:

In (claim 65, line 4) insert --said-- before "wrapped".

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 65-69 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 65 recites the limitation "the type" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim 65 recites the limitation "the received wrapped bakery products" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 65 recites the limitation "the turntable" in line 5. There is insufficient antecedent basis for this limitation in the claim.

Claim 68 recites the limitation "the pusher plate" in line 6. There is insufficient antecedent basis for this limitation in the claim.

Claim 68 recites the limitation "the action" in line 10. There is insufficient antecedent basis for this limitation in the claim.

Claim 69 recites the limitation "the transfer plate" in line 4. There is insufficient antecedent basis for this limitation in the claim.

In (claim 67, line 6 and claim 69, line 4) "the pusher plate" is vague, indefinite, and/or confusingly worded because it is not clear if applicants meant "the second pusher plate" or the other pusher plate?; etc.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 65-69 the best understood are rejected under 35 U.S.C. 103(a) as being unpatentable over Schneider et al. (5,317,859).

Schneider discloses a transfer apparatus including a pusher plate (Figs. 4A-4C) for moving groups of wrapped bakery products (22) onto the turntable (Fig. 2; via 71); means for moving the pusher plate back and forth (via conveyor 135 rotates around) between the first location wherein the pusher plate receives the wrapped bakery products and a second location wherein the wrapped bakery products are located on different station (Figs. 4A-4C); means for positioning the pusher plate in a vertical orientation as the transfer apparatus moves groups of wrapped bakery products onto the turntable and into the second location (Figs. 4A-4C) and into a horizontal orientation as the pusher plate is moved away from the second location and into the first location (Figs. 4A-4C; via while rotating the pusher plates 134 on the conveyor 135 by the rollers 131 the pushers oriented on horizontal position). Schneider does not disclose that the

Art Unit: 3721

pusher plate moves back and forth between receiving location of the bakery products and the turntable nor between the turntable and the bakery trays, but Schneider discloses the pusher plate disclosed the pusher plate at station 10 as shown in Fig. 2. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Schneider's device by having another pusher plates oriented above each of stations 30 and above the turntable 71, in order to push the wrapped bakery products from one station to another to support the conveying conveyors and insure complete transfer to the wrapped products, and it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

Schneider does not disclose a vacuum turntable. However, the examiner takes an official notice that the mentioned vacuum turntable is old, well known and available in the art. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Schneider's device by adding suction means under the turntable 71, in order to hold the products in place while rotating them and insure keeping same patterns in place while rotating.

Regarding claim 66: Schneider discloses a slip sheet into bakery trays (Figs. 4A-4C; via 139).

Conclusion

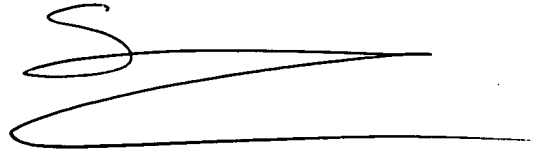
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sameh H. Tawfik whose telephone number is (703) 308-2809. The examiner can normally be reached on Tuesday - Friday from 8:00 AM to 6:00 PM.

Art Unit: 3721

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on (703) 308-2187. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sameh H. Tawfik
Patent Examiner
Art Unit 3721

A handwritten signature in black ink, consisting of a large, stylized 'S' followed by a horizontal line and a long, sweeping underline.

ST.